

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY DESHAWN HARRIS, JR.,

Petitioner,

v.

NICOLE MORRISEY O'DONNELL,

Respondent.

CASE NO. 2:23-CV-424-BHS-DWC

ORDER TO SUBSTITUTE AND
FOR SERVICE AND ANSWER, §
2254 PETITION

This is a federal habeas action filed under 28 U.S.C. § 2254. The Court, having reviewed petitioner's federal habeas petition, hereby finds and ORDERS as follows:

(1) Petitioner named the State of Washington as Respondent. Dkt. 1-1. The proper respondent to a habeas petition is the "person who has custody over [the petitioner]." 28 U.S.C. § 2242; see also § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). Multnomah County Sheriff Nicole Morrissey O'Donnell has custody over Petitioner, as Petitioner is currently confined at the Multnomah County Inverness Jail in Portland, Oregon. Accordingly, the Clerk of Court is directed to

1 substitute Nicole Morrissey O'Donnell as the Respondent in this action. The Clerk of Court is
2 also directed to update the case title.

3 (2) The Clerk shall arrange for service by certified mail upon respondent and the
4 Attorney General of the State of Washington copies of the petition, of all documents in support
5 thereof, and this Order. The Clerk shall also direct a copy of this Order, and of the Court's *pro se*
6 instruction sheet to petitioner.

7 (3) Within ***forty-five (45) days*** after such service, respondent(s) shall file and serve an
8 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
9 District Courts. As part of such answer, respondent(s) shall state whether petitioner has
10 exhausted available state remedies and whether an evidentiary hearing is necessary.
11 Respondent(s) shall not file a dispositive motion in place of an answer without first showing
12 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of
13 the Court and serve a copy of the answer on petitioner.

14 (4) The answer will be treated in accordance with LCR 7. Accordingly, on the face
15 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.
16 Petitioner may file and serve a response not later than the Monday immediately preceding the
17 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply
18 not later than the Friday designated for consideration of the matter.

19 (5) Filing by Parties, Generally

20 All attorneys admitted to practice before this Court are required to file documents
21 electronically via the Court's CM/ECF system. All non-attorneys, such as *pro se* parties and/or
22 prisoners, may continue to file a paper original with the Clerk. All filings, whether filed
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1 electronically or in traditional paper format, must indicate in the upper right hand corner the
2 name of the magistrate judge to whom the document is directed.

3 For any party filing electronically, when the total of all pages of a filing exceeds fifty
4 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
5 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be
6 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

7 Any document filed with the Court must be accompanied by proof that it has been served
8 upon all parties that have entered a notice of appearance in the underlying matter.

9 (6) Motions

10 Any request for court action shall be set forth in a motion, properly filed and served.
11 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
12 part of the motion itself and not in a separate document. The motion shall include in its caption
13 (immediately below the title of the motion) a designation of the date the motion is to be noted for
14 consideration on the Court's motion calendar.

15 (7) Direct Communications with District Judge or Magistrate Judge

16 No direct communication is to take place with the District Judge or Magistrate Judge with
17 regard to this case. All relevant information and papers are to be directed to the Clerk.

18 Dated this 3rd day of May, 2023.

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21 David W. Christel
22 Chief United States Magistrate Judge
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